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APR 12 1965
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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961

No. 919

JEANETTE E. GONDECK, Intervenor,

Petitioner,

vs.

PAN AMERICAN WORLD AIRWAYS, INCORPORATED and THE TRAVELERS INSURANCE COMPANY,

Respondents,

MOTION FOR LEAVE TO FILE PETITION FOR REHEARING

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The Petitioner JEANETTE B. GONDECK respectfully moves the Court for leave to file herein an extraordinary petition for rehearing on her petition for writ of Certiorari to the United States Court of Appeals for the Fifth Circuit to review its decision affirming the judgment of the United States District Court for the Southern District of Florida, which set aside an award of compensation for death under the Defense Bases Act, Title 42 U.S.C. 1651.

The Petitioner moves the Court to waive the provisions of Rule 58(4) of this Court's Revised Rules, and to apply herein the rule established in **United States v. Ohio Power Co.,** 353 U.S. 98 (1957).

For reasons for granting this extraordinary relief, Petitioner represents to the Court that there has just been determined in this Court three cases involving the same points, all holding differently from the holdings in this case:

O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc., (Ecker's case), 327 F.2d 1003 (5th Cir. 1964), certiorari granted, cause placed on summary calendar and reversed, per curiam, No. 307, March 29, 1965, 33 L. Week 3317, Opinion at 33 L. Week 3320.

Pan American World Airways, Inc. v. O'Hearne, (Smith's case) 335 F.2d 70 (4th Cir. 1964), cert. denied, No. 474, March 29, 1965, 33 L. Week 3322. (Awarding benefits to the widow and children of a worker killed in the same accident as Frank Gondeck).

O'Keeffe v. Pan American World Airways, Inc., (Rose's case) 338 F.2d 319 (5th Cir. 1964), cert. denied, No. 852, March 29, 1965, 33 L. Week 3322.

The Petitioner attaches hereto her proposed petition for rehearing.

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CERTIFICATE OF SERVICE

I hereby certify that pursuant to Supreme Court Rule 33(1) copies of the foregoing brief were served upon Leo M. Alpert, 1112 Biscayne Building, Miami 32, Florida, attorney for Respondents to Lloyd G. Bates, Jr., Assistant United States Attorney, Post Office Building, Miami, Florida; and to the Attorney General, Department of Justice, Washington 25, D.C., by depositing same in the United States Post Office with first class postage prepaid thereon on this____day of April, 1965.

ARTHUR ROTH